THE REPUBLICAN STUDY COMMITTEE
FINANCIAL SERVICES WORKING GROUP
RSC 202.226.9717
rsc.jordan.house.gov

Congressman Jim Jordan (R-OH), RSC Chairman
Congressman Randy Neugebauer (R-TX), FSWG Chairman
Congressman Jim Renacci (R-OH), FSWG Vice-Chairman
WEEKLY UPDATE: July 26, 2012

In This Newsletter:

- **Two Year Anniversary of Dodd-Frank**
- **Rep. Neugebauer Request in a Letter to the NY Federal Reserve that the Regulators Release More Documents that Clarify the LIBOR Controversy**
- **Rep. Renacci Seeks Cosigners for Letter to SEC Chairman Schapiro on Possible SEC Proposal to Have Money Market Funds Float their Net Asset Value (NAV)**
- **Repeal the Disparate Impact Law**

Two Year Anniversary of Dodd-Frank

The Dodd-Frank Act mandates that government regulators write over 400 new rules and directives that will be imposed on the private sector. Though many industry experts are reporting the financial services industry is safer and stronger, financial services companies and the economy have yet to face the most expensive costs coming from Dodd-Frank. Nearly 70% of the rules have yet to be finalized. Since Dodd-Frank was passed, regulators have written 189 rules, consuming 6,251 pages. It will take the private sector job-creators 23,865,065 hours every year to comply with these first 189 Dodd-Frank rules. Banks and credit unions, retirement funds, and other financial institutions are being forced to spend a larger portion of their budgets complying with Dodd-Frank rules rather than lending to small businesses and American consumers and investing in our economy by creating jobs. According to the Financial Services Committee's Report: The Dodd Frank Act Two Years Later:

- The derivatives title cuts off an essential tool that Main Street businesses use to manage risk, forcing them to set aside capital. Two years later, it is still unknown how expensive it will be for American businesses to comply with the derivatives title and how banks may be forced to reduce their ability to execute transactions with their customers.
- The consulting firm Oliver Wyman recently released a study which estimated the potential costs of the proposed Volcker Rule: investors could lose $90 billion to $315 billion on their holdings, and corporations could pay $12 billion to $43 billion a year more in borrowing costs.
- For the two years following the enactment of Dodd-Frank, the Office of Financial Research (OFR) was funded by the Federal Reserve System ("Fed"). This month, OFR will begin funding itself by levying assessments on bank holding companies with total consolidated assets of $50 billion or more and nonbank financial companies supervised by the Fed. The agency is expected to spend $157,745,000 in Fiscal Year 2013. Operating outside of the appropriations process, the OFR is not accountable to Congress, the President, or the Treasury Secretary, meaning that unelected bureaucrats will have extensive access and control over personal financial data.

Rep. Neugebauer Requests that the NY Federal Reserve Release More Documents that Clarify the LIBOR Controversy

According to a CRS Report, "the London Interbank Offer Rate (LIBOR) is an index that measures the cost of funds to large global banks operating in London financial markets or with London-based counterparties. The British Bankers' Association (BBA), a private trade association, constructs LIBOR, and Thomson Reuters publishes it worldwide. Barclays has admitted submitting false survey responses to manipulate LIBOR. Because LIBOR is used in U.S. derivatives markets participated in by Barclays, an attempt to manipulate LIBOR is an attempt to manipulate U.S. derivatives markets, and thus a violation of U.S. law. Barclays has settled separately with United Kingdom officials for violating UK law." It appears that regulators have been aware of institutions manipulating LIBOR for several years, yet did not sufficiently address the problem. While the NY Fed did send recommendations to the Bank of England to fix structural problems with LIBOR, it does not appear as though regulators pursued admitted instances of LIBOR manipulation. Rep. Neugebauer is requesting that the New York Fed hand over by September all documents showing communication about Libor during the period of August 2007 to July 2012 among New York Fed employees, as well as those between New York Fed employees and individuals who work at any of the sixteen banks that set the Libor U.S. dollar rate, U.S. governmental agencies and foreign governmental agencies. The goal is to understand the Fed's knowledge of market manipulation so that this issue can be vigorously investigated.

Rep. Renacci Seeks Cosigners for Letter to SEC Chairman Schapiro on Possible SEC Proposal to Have Money Market Funds Float their Net Asset Value (NAV)

Despite recent court cases in which the SEC had regulations overturned because they failed to perform a proper cost benefit analysis, the SEC is again on the brink of releasing a proposal that could drastically change the market place – without any cost benefit analysis and without input from Congress.

In 2010 the SEC adopted reforms that improved the credit quality, maturity, liquidity, and transparency of money market funds. These reforms required funds to shorten the maturities and to carry more liquid assets. Despite the success of these 2010 reforms, the SEC is now expected to propose additional reforms that will force money funds to float their net asset value (NAV), impose capital buffers, and mandate redemption freezes. These reforms would remove the benefits investors find attractive about money funds, essentially ending the industry as it currently exists.

If the SEC does not believe investors understand the product, they should use its authority and require additional disclosures. Attempting to abolish an entire industry simply because they don't believe it's the most prudent investment is another example of this administration telling investors (mostly highly sophisticate investors) they know what's best for them. Rep. Renacci is circulating a letter to House Members asking them to share their concerns regarding potential regulatory changes to money market funds. To sign on to this letter email jake.menefee@mail.house.gov.

Repeal the Disparate Impact Law

Recently the American Bankers Association urged regulators to limit lending discrimination cases to only those in which the practice is actually discriminatory in terms of its intent. According to the *Housing Wire*, "in a white paper submitted by the ABA and prepared by financial law firm **Buckley Sandler**, the group said previous Supreme Court rulings require claims to be based on the text of certain statutes."

According to Roger Clegg from the Center for Equal Opportunity, "the Obama administration has been a great fan of the "disparate impact" approach to civil-rights enforcement. That means that the government challenges a practice — in employment, housing, voting, environmental law, you name it — simply because it has a disproportionate statistical effect on one racial (or gender, etc.) group or other; what's more, the government does not have to prove or even allege that the practice is actually discriminatory by its terms, in its application, or in its intent. So, for example, if a bank required a down payment, or credit history, or home value, or whatever that the government didn't like, it could sue — and it would be up to the bank to prove to the satisfaction of a judge or jury at a trial that there was some sort of "necessity" for that practice." Many conservatives argue that disparate impact law in this area is one of the leading causes of the 2008 financial collapse. Challenging the disparate-impact approach is a good issue and RSC Members may wish to introduce stand-alone legislation to eliminate the disparate-impact law.

MEMBER ACTION ITEM: RSC Members may wish to introduce stand-alone legislation to prevent government lawsuits based on "disparate impact" instead of actual discriminatory practices. For more information or if you would like to introduce this legislation, please contact Ja'Ron Smith at ja'ron.smith@mail.house.gov.

Question or comments regarding RSC Financial Services Working Group items can also be directed to
Erik Johnson, Erik.Johnson@mail.house.gov. Or Ja'Ron K. Smith, Ja'Ron.Smith@mail.house.gov